

6/8/06  
Item # 120

**PLANNING COMMISSION RECOMMENDATION**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ESTABLISHING TEMPORARY REGULATIONS RELATING TO MOBILE FOOD ESTABLISHMENTS AND CREATING A MOBILE FOOD ESTABLISHMENT TASK FORCE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS.**

- (A) Mobile food establishments located on private property have not been recognized by the City in the past as a use that is permitted in the City.
- (B) Mobile food establishments have become a vibrant activity that contributes to the vitality of the City.
- (C) The Council desires to recognize mobile food establishments as a use that is permitted and to establish regulations applicable to the use.
- (D) During the period that the City is developing regulations for the use, the Council desires to establish temporary regulations that will permit the operation of a food establishment use until permanent regulations have been established.

**PART 2. DEVELOPMENT REGULATIONS.**

**(A) DEFINITIONS.**

In this ordinance:

- (1) **PERMIT HOLDER** means the person to whom a mobile food establishment permit is issued.
- (2) **MOBILE FOOD ESTABLISHMENT** has the meaning established in Section 229.162 (*Definitions*) of the Texas Administrative Code and Section 10-3-1 (*Definitions*) of the City Code.
- (3) **SOUND EQUIPMENT** has the meaning defined in Section 9-2-1 (*Definitions*) of the City Code.

**(B) MOBILE FOOD ESTABLISHMENT REGULATIONS.**

- (1) A mobile food establishment is not permitted on private property except as provided in this subsection.
- (2) A mobile food establishment:

  - (a) must be licensed by the health authority;
  - (b) is permitted in all commercial and industrial zoning districts;
  - (c) may not be located 50 feet or less from a property that is developed with a building that contains both a residential and commercial use;
  - (d) may not operate between the hours of 3:00 a.m. and 6:00 a.m.;
  - (e) may be located 300 feet or less from only one other mobile food establishment on the same side of the street and in the same block; and
  - (f) may not be located 20 feet or less from a restaurant general or restaurant limited use.
- (4) The noise level of the following types of equipment used in association with a mobile food establishment may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use:

  - (a) mechanical equipment; and
  - (b) sound equipment located outside of the mobile food establishment use.
- (5) A seating area for customers is prohibited.
- (6) Four off-street parking spaces are required.
- (7) A drive-in service is not permitted.
- (8) Exterior lighting must be hooded and shielded so that the light source is not directly visible to a residential use.
- (9) A sign attached to the exterior of the mobile food establishment:

1 (a) must be secured and mounted flat against the mobile food  
2 establishment; and

3 (b) may not project more than 6 inches from the exterior of the  
4 mobile food establishment.

5 (10) During business hours, the permit holder shall provide a trash  
6 receptacle for use by customers.

7 (11) The permit holder shall clear the area around the mobile food  
8 establishment of litter and debris each day of operation.

9 (12) A permanent water or wastewater connection is prohibited.

10 (13) Electrical service may be provided only by:

11 (a) temporary service or other connection provided by an electric  
12 utility; or

13 (b) an onboard generator.

14 (14) A mobile food establishment is an accessory use and not subject to  
15 this ordinance if it:

16 (a) is located on the same site as a restaurant (limited) or restaurant  
17 (general) use; and

18 (b) serves food provided by the restaurant (limited) or restaurant  
19 (general) use.

20 **(C) APPLICATION; APPROVAL.**

21 (1) A person may file a temporary use permit application for a mobile  
22 food establishment with the building official. The person must file the  
23 application at least ten days before the requested date for beginning  
24 operation of the mobile food establishment.

25 (2) An application must include a diagram and description of the mobile  
26 food establishment and additional information required by the  
27 building official.

28 (3) After making a determination under Subsection (D), the building  
29 official shall approve, conditionally approve under Subsection (E), or

1 deny an application not later than the 10th day after the date the  
2 application is filed.

- 3 (4) If the building official approves or conditionally approves an  
4 application, the building official shall issue a temporary use permit for  
5 a mobile food establishment.
- 6 (5) A temporary use permit for a mobile food establishment is effective  
7 for one year. A person must file a new application to continue beyond  
8 one year.

9 **(D) DETERMINATIONS.**

10 The building official may issue a temporary use permit after determining  
11 that the mobile food establishment:

- 12 (1) complies with Subsection (B);
- 13 (2) will not impair the normal, safe, and effective operation of a  
14 permanent use on the same site;
- 15 (3) will not adversely affect public health, safety, or convenience;
- 16 (4) will not create a traffic hazard or congestion; and
- 17 (5) will not interrupt or interfere with the normal conduct of uses and  
18 activities in the vicinity.

19 **(E) CONDITIONS OF APPROVAL.**

20 The building official may condition the approval of a temporary use permit  
21 for a mobile food establishment on compliance with additional requirements  
22 that the building official determines are necessary to minimize adverse  
23 effects on nearby uses, including traffic circulation, screening, site  
24 restoration, and cleanup.

25 **(F) SITE RESTORATION.**

26 On termination of a mobile food establishment, the permit holder shall  
27 remove all debris and litter from the site.

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1 **PART 3. TASK FORCE CREATED.**

2 The Mobile Food Establishment Task Force is created. The Task Force shall  
3 present a recommendation for permanent mobile food establishment regulations to  
4 Council on or before August 31, 2006.

5 **PART 4.** This ordinance expires on September 29, 2006.

6 **PART 5.** This ordinance takes effect on \_\_\_\_\_, 2006.

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8 **PASSED AND APPROVED**

9  
10 \_\_\_\_\_, 2006

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13 Will Wynn  
14 Mayor

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16  
17 **APPROVED:** \_\_\_\_\_

18 David Allan Smith  
19 City Attorney

20  
21 **ATTEST:** \_\_\_\_\_

22 Shirley A. Gentry  
City Clerk